

Remarks

Claims 114, 115, 117, 122, 123, and 125-129 are pending in the application, with claims 114, 122 and 126 being the independent claims. Claims 114 and 122 are amended herein. Support for the amendments can be found, *inter alia*, at paragraphs 30 and 35 of the specification and Figure 2A. The amendments do not add new matter.

Claim Rejection Under 35 U.S.C. § 103(a).

Claims 114, 115, 117, 122, 123, and 125-129 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyd (*Nucleic Acids Research*, 21(4):817-821, 1993) in view of Fox *et al.* (U.S. Patent No. 6,140,086) and Sadowski *et al.* (*J. Bacteriol.*, 165:341-347, 1989) or Sadowske *et al.* (*FASEB J.*, 7:760-767, 1993). (Office Action, page 2.) Applicants respectfully disagree, but to facilitate prosecution, Applicants have amended independent claims 114 and 122.

The Examiner asserts that Boyd teaches an *in vitro* method for high-speed cloning comprising producing one or more product nucleic acid molecules comprising two or more *lox* sites. (Office Action, page 2.) As amended herein, the present claims are directed in part to a method “wherein the *att* recombination sites at each terminus of the linear nucleic acid molecule do not recombine with each other” or in the case of claim 126 wherein an *att* site and a *lox* site are each ligated to a terminus of a linear nucleic acid molecule. In the method disclosed by Boyd, the *lox* sites at each end of the nucleic acid molecule recombine with each other to form a circular molecule (see Figure 2 of Boyd). This result is the exact opposite of the presently claimed method where the recombination sites do not recombine with each other. Neither Fox *et al.* or Sadowske *et al.* disclose the use of recombination sites which do not recombine with each other.

In view of the above, a *prima facie* case of obviousness has not been established for the present claims and Applicants respectfully request reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

Conclusion

All of the stated grounds of rejection have been properly traversed or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

/Peter G. Foiles/

Registration. No. 46,477
Peter G. Foiles
Agent for Applicants
(240) 379-4173

Date: March 2, 2009